



Legislative Department
Seattle City Council
Memorandum

Date: November 10, 2011

To: Councilmembers Sally J. Clark, Tim Burgess, and Sally Bagshaw
Committee on the Built Environment (COBE)

From: Rebecca Herzfeld, Council Central Staff

Subject: **November 16, 2011, COBE Meeting: Proposed Transfer of Development Potential Program in the Pike/Pine Conservation Overlay District**

Introduction

At the COBE meeting on September 14, 2011, the Committee provided direction on three issues related to the legislation sponsored by Councilmember Tom Rasmussen to establish a Transfer of Development Potential (TDP) program in the Pike/Pine neighborhood. The goal of the proposal is to add to the current incentives for maintaining the Pike/Pine neighborhood's existing stock of "character structures" (defined as buildings that are at least 75 years old) and to continue protecting the area's special character. The Committee did not have time to provide direction on the two remaining issues.

This memo presents the amendments to the legislation that carry out the Committee's direction on the three issues that were completed at the last meeting, and provides a staff recommendation for amendments to address the two issues that were not discussed on September 14. An updated schedule for adoption of the legislation is shown below:

Previous Actions	Date
Publication of DPD background paper on TDP	June 7, 2010
End of public comment period for TDP Background Paper	December, 2010
DPD publishes Pike/Pine TDP program report and legislation	April 28, 2011
Public meeting on draft TDP program legislation	May 23, 2011
End of comment period on draft TDP program legislation	June 6, 2011
DPD submits legislation to City Council, and publishes notice of Council public hearing and environmental determination	July 14, 2011
COBE briefing on proposal	July 27, 2011
Council public hearing on proposed TDP legislation	August 15, 2011
COBE review of comments made at public hearing	August 18, 2011
COBE reviews TDP program and provides direction to staff	September 14, 2011
Next Steps	
Public notice of possible changes to the legislation based on COBE direction, and opportunity to comment	October 27, 2011
Further review and possible COBE vote	November 16 or 30, 2011
Full Council vote on TDP program	November 21 or 28 or December 5 or 12, 2011

Overview of Proposed Pike/Pine TDP Program

The proposed legislation would establish a TDP program that would apply in the commercial zones within the boundaries of the Pike/Pine Conservation Overlay District (District). Both sending and receiving sites would be located in this area. The proposal would also designate a smaller area within the District, called the Conservation Core. This area in Pike/Pine has the highest concentration of character structures that were identified in a 2011 Historic Resources Survey as having potential historic value. Any character structure within the Conservation Core would be eligible to sell development potential. In addition, the legislation would establish new limits on structure width and depth in the Conservation Core, and would prohibit receiving sites within the Core, in order to address the greater need for compatibility with existing development in this area.

Under the proposal, a site would be eligible to sell (or “send”) development potential if it meets one of the following conditions:

- It contains a designated landmark structure;
- It is located anywhere in the Overlay District and contains a character structure identified in the 2011 Historic Resources Survey as: having a high degree of architectural integrity, representing the Pike/Pine neighborhood’s building typology, and being compatible with nearby structures in the Pike/Pine neighborhood (these structures would be listed in a Department of Planning and Development (DPD) Director’s Rule); or
- It is located within the Conservation Core and contains any character structure.

A sending site would be able to transfer the unused amount of floor area available on the lot based on floor area ratio (FAR) limits. If the character structure is a designated landmark, the amount that could be transferred would be doubled. Attachment 1 (Map 1, page 9) illustrates the boundaries of the proposed Conservation Core and eligible TDP sending sites. The owner of a TDP sending site would be required to bring the character structure into compliance with applicable codes and to maintain the structure for a minimum of 50 years with no significant alterations. If the structure is a designated landmark, the Landmarks Board may require elements of the building be preserved or restored.

Sites eligible to receive TDP would have to be located outside the Conservation Core in a NC3 zone with a 65 foot height limit. A lot would not be an eligible receiving site if the new project would result in the demolition of any character structure. On receiving sites, an additional 10 feet above the current 65 foot height limit, for a total of 75 feet, would be permitted. In order to accommodate the transferred development potential, the floor area being transferred to a receiving site would not count toward the established FAR limit. Development on receiving sites could exceed the current FAR limits, with or without an increase in height, but the portion of the structure allowed above the height limit would be subject to the same bulk controls that apply to the rest of the structure. The square footage gained from transferred development potential could only be used for housing.

Issue #1: Should the proposed TDP program allow transfer of development potential outside of the Pike/Pine neighborhood?

The Pike/Pine community has consistently advocated for allowing receiving sites to be located in other neighborhoods. Neighborhood representatives point out that because Pike/Pine is a relatively small area, allowing this would expand the market for development rights without putting undue pressure on the character of the neighborhood.

The Committee direction on this issue was to adopt the proposed TDP program that applies only within Pike/Pine, and to add language to the Land Use Code that would specifically allow transfer of

development potential outside of Pike/Pine if authorized by ordinance at a later date. The amendment to the legislation that would carry out this direction is shown below.

23.73.024 Transfer of development potential

A. General Standards for the transfer of development potential (TDP) within the Pike/Pine Conservation Overlay District.

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2. Development potential may not be transferred from one lot to another except as allowed by this Chapter 23.73.

3. Development potential may be transferred from eligible sending lots meeting the conditions of subsection 23.73.024.C to locations outside the Pike/Pine Conservation Overlay District if TDP transfer to specifically-identified areas or lots is authorized by City ordinance.

COBE vote on proposed code language:

Issue #1a: Proposed Resolution on TDP and TDR Programs

In order to establish a framework for the application of transfer of development rights (TDR) and TDP programs in the future, Councilmembers Clark and Rasmussen are sponsoring a resolution that calls for additional analysis by the Department of Planning and Development (DPD) and the submittal of policy recommendations (Resolution 31339, Item 4 on today's COBE meeting agenda). The resolution requests that DPD recommend criteria for determining where TDR and TDP programs should be used, and for prioritizing sending and receiving areas. This would help address the possibility of transferring development potential from Pike/Pine to other neighborhoods in the future. The Mayor concurs with this resolution.

COBE vote on proposed resolution:

Issue #2: Should all character structures in the Overlay District be eligible TDP sending sites?

Under the proposed legislation some character structures that are located outside the Conservation Core would not be eligible TDP sending sites. Character structures located outside of the Conservation Core would only be eligible sending sites if they meet criteria in the Code for architectural integrity and contribution to the character of the Pike/Pine neighborhood.

Public comments recommended that all buildings 75 years old or older should be eligible sending sites. The Committee supported this recommendation at the September 14th meeting, and the amendments to the legislation that would carry out the Committee's direction are shown below.

23.73.024 Transfer of development potential

C. Standards for Sending Sites.

1. TDP sending sites shall be located in an NC3P zone within the Pike/Pine Conservation Overlay District, excluding NC3P zones with an MIO-105 overlay, and shall contain one of the following structures; provided that character structures on the proposed TDP sending site have not been demolished, or significantly altered as defined in subsection 23.73.024.B.2, since the effective date of this ordinance:

a. One or more structures designated wholly or in part as a landmark under Chapter 25.12 or its predecessor ordinance;

~~((b. A character structure that is listed in a rule promulgated by the Director according to Section 23.73.005;))~~ or

~~((e))~~b. Any character structure ~~((if the lot is located in the Conservation Core identified on Map A for 23.73.010))~~.

Committee vote on the definition of eligible TDP sending sites:

Issue #3: Should use of square footage gained through TDP be limited to housing?

One public comment asked about the rationale for restricting the transferred square footage to residential use. The commenter pointed out that while most developers will want to build housing, some “may see fit to create office or live-work lofts, and they should be able to decide based on market demand.”

The Committee direction on this issue was to allow transferred square footage to be used for live-work units as well as residential uses. “Live-work unit” was created as a commercial use category in the Code in 2006. A live-work unit is defined as a space in which a permitted business is combined with a residential living space for the owner or an employee of the business. It is considered a commercial use, but also has a strong residential component. The amendment that would carry out to allow transferred square footage to be used for live-work units is shown in Attachment 2 on page 10.

Committee vote on allowing square footage gained through TDP to be used for live-work units:

Issue #4: What building width and depth limits should be established inside and outside of the Conservation Core?

As described above, the proposed legislation would establish an area within the District called the Conservation Core. This area has the highest concentration of character structures in Pike/Pine that were identified in a 2011 Historic Resources Survey as having potential historic value. It also has active commercial uses along almost every street front, and generally has smaller parcels and less land assembly compared to the area outside the proposed Core. There are six ways that the proposed

Conservation Core would be different from the rest of the Overlay District, as summarized on Table 1 below.

Table 1: Comparison of Proposed Regulations inside and outside the Conservation Core area

	Allows sites to receive TDP	Eligible sending sites include all character structures*	Width Limits apply	Depth Limits apply	Floor size limits apply above 35 feet in height	Flexibility from width, depth, and floor size limits allowed
Within the Conservation Core	No	Yes	Yes, on all streets	Yes, 128 feet	No, not necessary with width and depth limits	Yes, if a character structure is retained on site, and only if no character structure is removed
Outside the Conservation Core	Yes	No, limited to listed sites	Yes, but only on Pike and Pine Streets (limited to half the width of the block)	No	Yes, on lots over 15,000 square feet in size	Yes, if a character structure is retained on site, and only if a listed character structure is not removed; otherwise, on a lot with several character structures, a character structure that is not listed could be removed

*This difference no longer applies if the Committee votes to approve the amendment presented in Issue #2 above.

The current regulations in the Overlay District regulate building bulk in two ways. The first is a building width limit that applies to lots that abut Pike and Pine Streets. The second is a floor size limit that applies to buildings above 35 feet in height on lots larger than 15,000 square feet. These two regulations are intended to prevent bulky structures that are significantly larger than the current scale of the area. Under the proposed legislation, as shown on Table 1, additional building width and depth limits would be applied to all lots within the Conservation Core.

Two proposals have been made by the public about the additional building width and depth limits proposed for the Core. These proposals and a staff recommendation are discussed below.

- Proposal #1: In addition to adopting the more stringent width and depth limits within the Conservation Core, apply them to TDP receiving sites outside the Core.
- Proposal #2: Treat the Core in the same way as the rest of the Overlay District, and either apply the more stringent width and depth limits to every lot in the District or don't adopt them at all.

Proposal #1 would apply the more stringent building width and depth limits to TDP receiving sites outside of the Core. These additional limits on building bulk would significantly reduce the capacity to

use development potential purchased from eligible character structures and would make the TDP program less attractive. For this reason, and because the current limits on building bulk would continue to address the potential bulk impacts of structures on TDP receiving sites, we do not recommend this option.

Proposal #2 would either apply the more stringent limits throughout the District or not at all. Applying the limits everywhere would work against use of the TDP Program, as described for Proposal #1 above. It would also limit the effectiveness of incentives that are already in place that permit new buildings to be bigger if they incorporate a character structure on the same lot. Allowing a somewhat larger building was seen as a necessary economic incentive to offset the higher costs of retaining an older structure in a new development.

On the other hand, if the stricter building width and depth limits are not applied in the Conservation Core, there would be no deterrent to assembling larger development sites in the Core, and it is more likely that over time the scale of development in this area will increase and that a larger number of character structures will be demolished. It is difficult, however, to quantify the number of character buildings that might be lost. If this proposal is adopted, the only remaining difference in the regulations in the Conservation Core and the rest of the District would be that TDP receiving sites would be prohibited.

After reviewing the public comments about building bulk, staff recommends keeping the concept of the Conservation Core in the proposal. In addition, we recommend the following three minor amendments to the proposed regulations to close a potential loophole and better address irregularly-shaped lots:

- **Exception to the floor size limits.** Continue to permit a 25% increase in floor size and 10 feet of additional height for developments that preserve all or part of a character structure or that buy development potential. Add a clarification that for large lots, one character structure must be preserved for each building or portion of a building for which floor size or height is increased. This would avoid the situation in which a developer owns a large lot with three or four character structures, saves only the smallest one, and increases the height and floor size limits for new development on the entire lot.
- **Width and depth limits.** Adopt the more stringent width and depth limits within the Conservation Core, as proposed in the legislation, but set the maximum width limit at 128 feet, rather than 120 feet. This would simplify the Code by making both the width and depth limit 128 feet, and would eliminate debate about what comprises lot width as opposed to depth on corner lots and irregularly-shaped parcels.
- **Exceptions to width limits.** To avoid creating a hardship in the Pike/Pine Overlay District that are irregular in shape, or on which new development would not affect a character structure, clarify that the building width limits only apply to lots that include a character building as of the effective date of the legislation. Without this exception, there are two or three lots might have to be divided into two parcels in order to be developed, one of which may be unbuildable. Building size would still be regulated by maximum depth limits inside the Conservation Core, and by floor size limits outside the Core.

The amendments that would carry out these recommendations are shown in Attachment 3 on page 12.

Committee direction on width and depth limits and possible vote on proposed amendment:

Issue #5: Should the proposed boundaries of the Conservation Core be expanded?

At the public hearing, a suggestion was made to include two additional areas in the Conservation Core: (1) the south half of two blocks along Union between 10th and 12th Avenues; and (2) the former BMW dealership site at the corner of East Pike Street and Harvard Avenue East (see Map 1 on page 10). These two areas are discussed separately below.

Issue #5a: Should the south half of two blocks between E. Pike and E. Union Street and 10th and 12th Avenues be added to the Core?

These half blocks were omitted from the proposed Conservation Core for several reasons. They are close to the southern edge of the Overlay District, and have less continuous retail frontage than the Core area. On the half block north of Union, there is a parking lot that would be a potential TDP receiving site if it remains outside of the Conservation Core. In addition, although it is not obvious from walking around the area, the character structures located on the half block west of 11th Avenue have been assembled under single ownership, and the resulting parcel is about an acre in size. This is much larger than lots within the proposed Core.

A parcel of this size is big enough to take full advantage of the current incentives for preserving character structures. However, if the site were subject to the strict building width and depth limits that apply in the Core, it would force the construction of at least two separate square buildings with fixed dimensions. Without the flexibility to adapt new construction to site conditions, and with added requirements for multiple elevator cores and access to separate parking facilities, the use of the incentives for maintaining existing structures would be uneconomical, increasing the likelihood that existing character structures would be demolished.

For these reasons, the staff recommendation is to continue to exclude this area from the Core.

Committee vote on adding the south half of two blocks between E. Pike and E. Union Street and 10th and 12th Avenues to the Core:

Issue #5b: Should a partial block between Harvard and Boylston Avenues and Pike and Pine Streets be added to the Core?

The core area defined in the Pike/Pine Neighborhood Plan only extended as far west as Broadway Avenue. The proposed Conservation Core would extend one block further, to Harvard Avenue, in order to take in both sides of Broadway and include the iconic Egyptian Theater building. The partial block proposed for inclusion was omitted because it is even farther west, in an area where more intensive residential development along north-south side streets is promoted in the Neighborhood Plan. The activity and development there do not closely match the characteristics of the Core, which generally has multiple small businesses along the street front and smaller parcel sizes. This area also includes surface parking lots and other sites that could be potential receiving sites that would be ineligible as receiving site if included within the core. For these reasons, the staff recommendation is to continue excluding this half block from the Core.

Committee vote on including the partial block between Harvard and Boylston Avenues in the Conservation Core:

Committee vote on amended legislation:

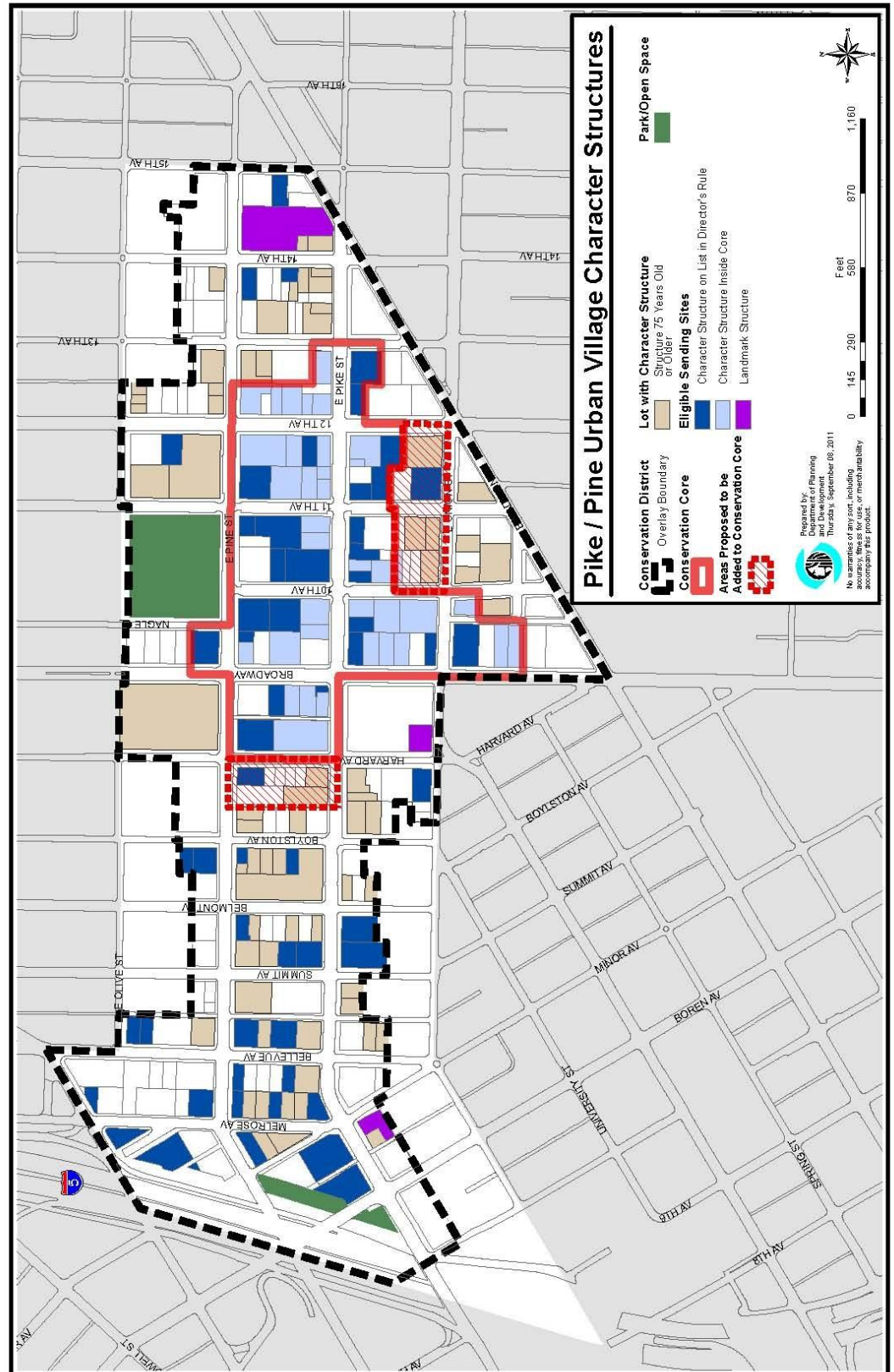
Attachments

1. Map 1: Proposed Conservation Core, Eligible TDP Sending Sites, and proposed additions to the Conservation Core
2. Amendment to add Live-Work Units as a permitted use for transferred TDP
3. Amendment to address building width and depth limits

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Attachment 1

Map 1: Proposed Conservation Core, Eligible TDP Sending Sites, and proposed additions to the Conservation Core



**Attachment 2: Amendment to add Live-Work Units as a permitted use for transferred TDP
(proposed changes are underlined)**

23.73.024 Transfer of development potential

A. General Standards for the transfer of development potential (TDP) within the Pike/Pine Conservation Overlay District.

1. For a lot located in an NC3P 65 zone within the Pike/Pine Conservation Overlay District shown on Map A for 23.73.004, excluding the area within the Conservation Core shown on Map A for 23.73.010, an applicant may use transferable development potential to obtain one or both of the following:

a. Additional residential and live-work unit floor area above the maximum FAR limit for a mixed use structure in subsection 23.47A.013; or

b. A height exception to allow an additional 10 feet above the 65-foot height limit.

2. Development potential may not be transferred from one lot to another except as allowed by this Chapter 23.73.

B. Standards for character structure TDP receiving sites. A lot must meet the following conditions in order to be eligible to achieve extra residential floor area through TDP:

1. Character structure TDP receiving sites shall be located outside the Conservation Core identified on Map A for Section 23.73.010.

2. Development of the receiving site shall not result in the demolition or significant alteration of a character structure or a designated landmark. For purposes of this Section 23.73.024, significant alteration of a character structure means:

a. For character structures that are not designated landmarks:

1) Alteration of the exterior façades of the character structure, except alterations that restore the façades to their original condition;

2) Alteration of the floor-to-ceiling height of the street level story, except alterations that restore the floor-to-ceiling height to its original condition; or

3) The addition of stories to the character structure, unless the proposed addition is no taller than the maximum height to which the character structure was originally built.

b. For character structures that are designated landmarks, if the Landmarks Preservation Board grants a Certificate of Approval for an alteration, the alteration is not considered significant.

3. An additional 10 feet in height above the height limit of the zone is permitted on TDP receiving sites.

4. All floor area above the FAR limit and above 65 feet in height shall be achieved through the use of TDP.

5. Floor area gained through the use of TDP shall be for residential or live-work unit use only.

6. For a structure that achieves an increase in height through the use of TDP, the minimum street level floor-to-ceiling height shall be 13 feet.

7. TDP required before construction. No permit after the first building permit, and in any event no permit for construction activity other than excavating or shoring, and no permit for occupying existing floor area by any use based on TDP; will be issued for development that includes TDP until the applicant has demonstrated possession of TDP to the Director's satisfaction.

Attachment 3: Amendments related to building bulk to close a loophole and address irregularly shaped lots (proposed changes are highlighted in gray)

23.73.010 ((Development standards)) Floor size limits outside the Conservation Core

A. Floor size limit. The following provisions apply to lots located outside the boundaries of the Conservation Core identified on Map A for 23.73.010.

1. On lots greater than 15,000 square feet in size, the maximum gross floor area of any single story above 35 feet in height is 15,000 square feet. The floor size limit shall not apply to non-residential uses in a structure developed on a lot ~~((pursuant))~~ according to subsection 23.73.009.B.2.

2. On a lot with more than one structure that exceeds 35 feet in height, the floor size limit ((shall apply)) applies to the portions of each structure above 35 feet in height.

3. On a lot where ((or)) more than one portion of the same structure exceeds 35 feet in height, the floor size limit ~~((shall apply))~~ applies to each portion of the structure above 35 feet in height. A minimum separation of 40 feet is required at all points between separate portions of a structure above 35 feet in height on the same lot, except that separation between a new structure and an existing structure located on the same lot is not required. ~~((Where))~~ If the separation between portions of a structure above 35 feet in height is less than 40 feet, the floor area of each story in the separated portions of the structure shall be combined to determine the floor area subject to the floor size limit.

~~((3))~~4. If new structures on the same or abutting lots have internal connections above the first story, the connected structures are considered to be a single structure for the purpose of calculating the floor area subject to the floor size limit, ((Internal connections above 35 feet in height between new portions of a structures on the same lot and between separate structures on abutting lots are not permitted,)) unless the structure ((on the abutting lot)) to which the connection is made is a character structure.

~~((4))~~5. For a project that retains ~~((the whole of a))~~ an entire character structure on the lot, any floor area above 35 feet in height within the character structure, whether connected to a new structure or not, is not included in the calculation of the floor area subject to the limit on floor size.

B. Exceptions to floor size limit.

1. For a structure with a minimum of 50 percent of the total gross floor area in residential use, the Director may permit, as a Type I decision, an increase in the floor size limit of up to 15 percent, on lots with an area of 30,000 square feet or less, not counting any area occupied by a character structure, to allow additional development flexibility to promote neighborhood conservation objectives and design that minimizes the overall appearance of the project's bulk, ~~((, provided that no))~~ No increase in floor size is permitted for a project that will result in the demolition of a character

structure. ~~((On a lot with an area of 30,000 square feet or less, not counting any area occupied by a character structure, the limit on floor size above 35 feet in height may be increased by 15 percent))~~ In order for a structure to qualify for an increase in floor size area ~~((if))~~ one or more of the following conditions ~~((apply))~~ must exist:

~~((1))~~a. Conditions in the vicinity of the lot minimize the impact of additional development bulk on the existing character of the area. Such conditions include locations on the edges of the Pike/Pine Conservation Overlay District where development on large lots already exists, or where irregularities in the street grid have created small blocks or a single lot surrounded on all sides by streets; or

~~((2))~~b. The proposed new project includes features that offset the perceived scale of development, such as a landscaped courtyard that is visible from the sidewalk and located primarily at street level on a street that is not a principal pedestrian street; or

~~((3))~~c. The increase in floor size is for a mixed-use project that includes uses contributing to the area's recognized character as an arts district, including performing arts space and artist live/work space~~((, which))~~ that typically have design requirements~~((;))~~ such as ~~((non-standard))~~ nonstandard floor-to-ceiling heights~~((;))~~ that reduce the total amount of usable floor area in a structure; or

~~((4))~~d. The additional floor area will facilitate development of housing that is affordable to and occupied by "income-eligible households," as defined in Section 23.58A.004, for a minimum of 50 percent of the total gross floor area of the project and is subject to covenants ensuring that the housing remains available to these households for a minimum of 50 years.

~~((C))~~2. Retaining character structures on a lot. A 25 percent increase in the floor size limit above 35 feet in height is permitted for projects that incorporate a character structure on the same lot, either as a whole structure or as a portion of a structure, ~~((pursuant))~~ according to the following provisions.

~~((1))~~a. No increase in floor size is permitted under the provisions of this subsection 23.73.010.B.2 for a project that will result in the demolition of a designated Seattle ~~((Landmark))~~landmark, or of a character structure ~~((identified on Table A for 23.73.010))~~ listed in a rule promulgated by the Director according to Section 23.73.005.

b. One character structure must be retained for each new structure or portion of a structure that is subject to the floor size limit in order for the new structure or portion of a structure to qualify for the 25 percent increase in floor size.

((2))c. For a project that incorporates portions of a character structure, the following conditions shall be met:

((a))1) All street-facing facades of the character structure are retained;

((b))2) All portions of the new structure above the height of the street-facing facades of the character structure are set back a minimum of 15 feet from all street property lines that abut the character structure; and

((c))3) The original floor-to-ceiling height of the ground story is maintained.

((3))d. Any floor area in a new portion of the structure above 35 feet in height that is within the area of the original footprint of the character structure and is separated from the street along all street frontages by the original facades of the character structure is not

((4))e. A project that is granted an increase in floor size under the provisions of this subsection 23.73.010.((C))B.2 shall maintain the character structure, or portions of the character structure, both interior and exterior, in good condition and repair and in a manner that preserves unique features and characteristics for the life of the project. Any increase in floor size permitted ((pursuant)) according to this ((Section)) subsection 23.73.010.((C))B.2 shall not be combined with any increase in floor size permitted ((pursuant)) according to Section 23.73.010.B.1.

3. A 25 percent increase in the floor size limit is permitted on the receiving site of a project that adds floor area through the use of TDP as permitted by Section 23.73.024, provided that the amount of floor area added through the use of TDP is equivalent to at least 0.25 FAR, as calculated for the receiving site.

23.73.012 Structure width and depth limits

(Staff is proposing some reorganization of the wording of this new code section for clarity, and these minor amendments are not highlighted below. The only proposed substantive change is highlighted in gray).

A. The structure width and depth limits in this Section 23.73.012 apply to lots that contained a character structure on the effective date of the ordinance introduced as Council Bill 117235.

B. Structure width limit outside the Conservation Core. Outside the Conservation Core identified on Map A for 23.73.010, for all portions of a structure that abut Pike, East Pike, Pine, or East Pine Streets, the structure width limit on block faces that exceed 170 feet in width is 50 percent of the total width of all lots on the block face, measured along the street lot line, except that the structure width limit calculation does not include the following:

1. Portions of a character structure, whether connected to a new structure or not;
2. Portions of a new structure that are separated from the street property line by another lot;
3. Portions of a new structure that are separated from the street property line by an adjacent structure located on the same lot that is not a character structure, provided that the adjacent structures are not internally connected above or below grade;
4. Portions of a new structure that are separated from the street property line by a character structure or by the remaining portions of a character structure included in a project as allowed by subsection 23.73.010.B.2.

C. Structure width limit inside the Conservation Core. Inside the Conservation Core identified on Map A for 23.73.010, the structure width limit on block faces that exceed 170 feet in width is 128 feet, measured along the street lot line, except that the structure width limit calculation does not include the following:

1. Portions of a character structure, whether connected to a new structure or not;
2. Portions of a new structure that are separated from the street property line by a character structure or by the remaining portions of a character structure included in a project as allowed by subsection 23.73.010.B.2, provided that the new structure does not result in the total demolition of any character structure on the lot.

E. Structure depth limit inside the Conservation Core. Inside the Conservation Core identified on Map A for 23.73.010, the structure depth limit is ~~120~~ 128 feet, measured as the combined depth of all structures located on the lot, except that portions of a character structure on the lot, whether connected to a new structure or not, are not included in calculating structure depth.

23.73.014 Height exceptions (*changes are highlighted in gray*)

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B. Height exception for lots that include a character structure. In zones with a 65-foot mapped height limit, or with a 40-foot mapped height limit with provisions allowing for additional height up to 65 feet according to subsection 23.47A.012.A, the Director may permit the height of a structure to exceed the height limit of the zone by 10 feet, subject to the following:

1. The lot includes a character structure.
2. If a project incorporates a character structure on the lot, the project meets the following conditions:
 - a. All street-facing facades of the character structure shall be retained;

b. All portions of the new structure above the height of the street-facing facades of the character structure shall be set back a minimum of 15 feet from all street property lines that abut the character structure; and

c. The original floor-to-ceiling height of the ground story shall be maintained.

3. The additional floor area above the 65-foot height limit is occupied solely by residential use; ~~and~~

4. The project will not result in the demolition of a character structure listed in a rule promulgated by the Director according to Section 23.73.005 or of a designated landmark, except to the extent allowed in subsection 23.73.014.B.2; ~~and~~

5. One character structure must be retained for each new structure or portion of a structure that is subject to the floor size limit in subsection 23.73.010.A in order for the new structure or portion of a structure to qualify for the 10 foot increase in height.

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